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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,772	12/06/2001	Martin L. Gronberg	NETS0082	9956
22862	7590	01/30/2006		
GLENN PATENT GROUP 3475 EDISON WAY, SUITE L MENLO PARK, CA 94025			EXAMINER MCALLISTER, STEVEN B	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/008,772	<b>Applicant(s)</b> GRONBERG ET AL.	
	<b>Examiner</b> Steven B. McAllister	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 12 is objected to because of the following informalities discussed below.

Appropriate correction is required.

Claim 12 recites 'the reporting system, which lacks antecedent basis. It is unclear what elements comprise the reporting system.

It is noted that claims 1-10 and 16-20 are shown as withdrawn, but that the text of the claims is not shown. 37 CFR 1.121 requires the text of all claims, including withdrawn claims, to be shown.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11, 12, 14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Tam et al (2002/0147656) (hereinafter '656).

Tam '656 discloses a system for quantifying the effectiveness of advertising using an online merchant system (304; see Figure 3) that facilitates commercial transactions involving commerce items, comprising: a commerce item information receiving system (Aggregator 302 see e.g. Figure 3; see also e.g. page 2, paragraph 0020) that is accessible by at least one online entity (seller 304) that may interface with the commerce item information system (302) to deliver a data feed comprised of plurality of commerce item information packets that relate to commerce items that can be shopped for by online users via the online merchant system (see e.g. page 2, paragraph 0021), the commerce item information receiving system under hardware and software control to receive, map and store each commerce item information packet into an aggregate database using a common commerce item information format (see e.g. page 3, paragraph 0025), and associate a commerce item information tag (e.g., XML tags; see page 5, paragraph 0047) to each commerce item information packet stored within the aggregate database.

'656 also shows that the system includes a commerce metric recording system accessible to a vendor (see e.g. receiving orders in 0054 and receiving sales trends in par. 0052) that records commerce metrics related to the online activity regarding any particular commerce item by recording queries (the queries comprising purchases made of items in the database by buyers) of the aggregate database returning a specific unit of commerce item information and the associated commerce item information tag (see also page 7, paragraphs 0071 and 0076; page 10, paragraph 0095).

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As to claim 12, the reporting system further enables reporting commerce metrics to an online entity selected from the group of entities consisting of an online service provider and an online vendor (see page e.g., pars. 0052 and 0054 above discussing reporting sales and sales trends, and buying habits as shown in page 7, paragraphs 0071 and 0076,. page 10, paragraph 0095).

As to claim 14, the commerce item information tag further comprises a product identifier (see page 5, paragraph 0047, product information 110 includes product name, product number, etc.), the product identifier generated according to a methodology that reflects similarities in commerce item information.

As to claim 15, the methodology for generating product identifiers for association with the commerce item information in the aggregate database generates product identifiers that also reflect the differences in commerce item information (see again page 5, paragraph 0047, product information 110 includes product name, product number, etc.).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over '656.

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'656 shows all elements of the claim except that the commerce metrics comprise at least one of: a number of user aggregate database queries retrieving the commerce item information associated with the commerce item information tag; temporal aspects related to said user database queries retrieving the commerce item information associated with the commerce item information tag; and aggregate database retrievals initiated by the online merchant system for advertisement related purposes.

However, the examiner takes official notice that it is notoriously old and well known in the art to provide metrics of at least one of these types. It would have been obvious to one of ordinary skill in the art to modify the method of '656 by providing the recited types of data in order to enable the seller to better characterize the response to and effectiveness of sales strategies.

### ***Response to Arguments***

Applicant's arguments filed 10/13/2005 have been fully considered but they are not persuasive.

Applicant argues that '656 does not show all elements of claim 11, more specifically that it does not show collecting browsing habits. The examiner acknowledges that '656 does not show collecting browsing habits, but notes that it does show buying habits and sales numbers and buying trends associated with identified products.

These sales numbers, buying trends and buying habits are commerce metrics related to specific recorded queries of the aggregate database. As interpreted by the

examiner, a purchase is a query of the database. As such, the reference reads on the claimed limitation.

It is noted that if the claim recited recording all queries of the aggregate database, or recording queries of the aggregate database regardless of whether the query represents a sale, the reference would not read on the limitation.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

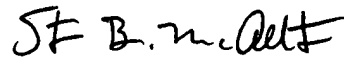
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (571) 272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven B. McAllister  
Primary Examiner  
Art Unit 3627

  
Steven B. McAllister

**STEVE B. MCALLISTER**  
**PRIMARY EXAMINER**